

PT 02-3

Tax Type: Property Tax

Issue: Religious Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS**

NEW WINE FELLOWSHIP)	A.H. Docket #	00-PT-0043
Applicant)	Docket #	99-54-9; 00-54-5
)		
v.)	Parcel Index #	54-08-030-034-00
)		
)	Barbara S. Rowe	
THE DEPARTMENT OF REVENUE)	Administrative Law Judge	
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. Kent Steinkamp, Special Assistant Attorney General for the Illinois Department of Revenue.

Synopsis:

The hearing in this matter was held at the Illinois Department of Revenue, 101 West Jefferson Street, Springfield, Illinois on June 13, 2001, to determine whether or not Logan County Parcel Index No. 54-08-030-034-00 qualified for exemption during the 1999 and 2000-assessment years.

Mrs. Shirley Barry, Treasurer of the New Wine Fellowship (hereinafter referred to as the "Applicant") was present and testified on behalf of the applicant.

The issues in this matter include, first, whether the applicant was the owner of the parcel during the 1999 and 2000-assessment years; secondly, whether the applicant is a religious organization; and lastly, whether this parcel was in the process of adaptation or was in fact used by the applicant for exempt purposes during the 1999 and 2000-assessment years. After a

thorough review of the facts and law presented, it is my recommendation that the requested exemption be denied for the 1999 and 2000-assessment years. In support thereof, I make the following findings and conclusions in accordance with the requirements of Section 100/10-50 of the Administrative Procedure Act (5 ILCS 100/10-50).

FINDINGS OF FACT:

1. The jurisdiction and position of the Department that Logan County Parcel Index No. 54-08-030-034-00 did not qualify for a property tax exemption for the 1999 and 2000-assessment years was established by the admission into evidence of Dept. Ex. No. 1. The 3.66-acre parcel is located on Woodlawn Road in Lincoln, Illinois. (Dept. Ex. No. 1; Tr. p. 7)

2. The Board of Review of Logan County recommended denying the requested exemptions because the property was not in exempt use. The Department agreed with the board and denied the exemptions because the Department determined that the property was not in exempt use in 1999 and 2000. The applicant timely requested the hearing. (Dept. Ex. No. 1)

3. The applicant acquired the subject property by a warranty deed dated August 27, 1999, for the purpose of building a new church facility. (Dept. Ex. No. 1)

4. The property is a vacant lot. (Dept. Ex. No. 1)

5. The applicant met with RAA Consulting Services of Springfield from July 30, 1999 through the end of September 1999 for the preliminary investigation of the property in regard to the City's zoning, water easement, and Illinois Department of Transportation access. On August 5, 1999, the applicant met with the architecture firm to discuss the viability of the use of the land for the church's purposes. (Applicant's Ex. B; Tr. pp. 8-9)

6. The applicant began a building fund in July 1999 in anticipation of building the new facility. As of the date of the hearing the balance in the building fund was \$348,000.00. According to the applicant's Statement of Financial Position, as of December 31, 2000, the net assets of the building fund were \$1,466,024.00. The savings for the building fund were \$228,100.00. The applicant has carefully planned to begin phase I of the building project without

taking out a loan. The current cost for phase I of the project is \$2.3 million. (Applicant's Ex. I; Tr. pp. 9, 18, 26)

7. Initially the applicant planned to have space for a Bible School, visiting minister apartments, and a fellowship area as well as the place for worship, gathering space, Christian Education area, and administration section. (Applicant's Ex. A; Tr. pp. 9-10)

8. The applicant was given a facility to house the Bible School, so it is no longer contemplated to be on the subject property. Neither the Fellowship area nor apartments are part of the plans for phase I. (Applicant's Ex. H; Tr. p. 10)

9. On August 13, 1999, the applicant received notification from the Illinois Department of Transportation acknowledging that the preliminary site and drainage plans are acceptable to the Department of Transportation. (Applicant's Ex. C; Tr. p. 13)

10. On August 13, 1999, the applicant received verification that the property was zoned correctly for a church to be built upon it. (Applicant's Ex. D; Tr. p. 14)

11. On September 10, 1999, applicant received verification that water service would be possible on the property. (Dept. Ex. No. 1; Applicant's Ex. F; Tr. pp. 14-15)

12. In a letter dated June 11, 2001, the consultant states that the architectural firm has been hired and the project is on its way toward completion regarding the budget and design. (Applicant's Ex. H; Tr. p. 16)

13. The applicant executed its contract with the engineers on May 17, 2001. (Applicant's Ex. J; Tr. p. 18)

14. The final architecture plans are dated May 24, 2001. They are based upon the applicant's determination in December 2000 or January 2001 of what would be included in phase I. (Applicant's Ex. K; Tr. pp. 24-25)

15. The applicant expects construction to begin in August 2001. Groundbreaking occurred on June 5, 2001. (Applicant's Ex. M; Tr. pp. 16-18, 20)

16. I take administrative notice of the fact that the applicant has been granted religious use property tax exemptions pursuant to Docket Nos. 85-54-5 and 96-54-9 for properties other than the one at issue.

CONCLUSIONS OF LAW:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

This provision is not self-executing but merely authorizes the General Assembly to enact legislation that exempts property within the constitutional limitations imposed. City of Chicago v. Illinois Department of Revenue, 147 Ill.2d 484 (1992)

Pursuant to the authority granted by the Constitution, the legislature has enacted exemptions from property tax. At issue is the religious exemption found at 35 **ILCS** 200/15-40. That portion of the statutes exempts certain property from taxation in part as follows:

§ 15-40. Religious purposes, orphanages or school and religious purposes. All property used exclusively for religious purposes, or used exclusively for school and religious purposes, or for orphanages and not leased or otherwise used with a view to profit, is exempt. . . .

Pursuant to Docket Nos. 85-54-5 and 96-54-9 the Department has determined that the applicant is a religious organization that qualified for property tax exemptions for religious use of properties other than the one at issue.

In the future the applicant intends to use the subject parcel for its sanctuary and related uses. In the case of People ex rel. Pearsall v. The Catholic Bishop of Chicago, 311 Ill. 11 (1924), the Illinois Supreme Court held that the mere fact that property was intended to be used for an exempt purpose was not sufficient to exempt said property. The Court required that the actual primary exempt use must have begun for the property to be exempt from taxation.

The issue herein is whether there was sufficient adaptation of the subject property by the applicant for religious usage in 1999 and 2000 to qualify for exemption during those assessment years. Illinois Courts have consistently held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1st Dist. 1977); and Weslin Properties Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2nd Dist. 1987).

Weslin, a case about adaptation with facts similar to those at bar, concerns the construction of a multi-million dollar hospital. In 1980 Weslin began to study ways to expand and continue its provision of health services. In 1981 it employed long-range planning consultants who recommended buying the 30-50 acres for the planned construction. In 1982 a second consultant was hired to make in depth studies of health care needs and a financial feasibility study. In 1983, Weslin's board recommended buying the 24.309 acres; the board approved the purchase for \$2,197,000.00; Weslin met with architects to develop a master site plan and schematic drawings; an ad hoc planning committee approved the plan; and the physical adaptation of the property was begun with landscaping and the construction of berms. In 1984 the construction manager was hired, the final design and changes were completed, and the ground breaking ceremony was held. The urgent care center was completed in 1985. The court found that there was sufficient development and adaptation to grant the exemption in 1983.

The applicant herein has significantly less adaptation and development action in 1999 and 2000 than was shown in Weslin. Although the property was purchased in August 1999, the applicant did not finalize its blueprints until 2001. The applicant was not even sure whether or not the Bible School was going to be on the subject property until 2001. Groundbreaking did not occur until 2001. As of the date of the hearing, the applicant has not raised sufficient funds to complete the project.

I find that applicant's use of the property during 1999 and 2000 was speculative rather than in any way adapting as required by Weslin.

For the foregoing reasons, it is recommended that Logan County Parcel Index No. 54-08-030-034-00 remain on the tax rolls for 1999 and 2000 and be assessed to the applicant, the owner thereof.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge
December 23, 2001